CHAPTER 7

Canada and the United States

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1 Introduction

Canada and the United States, two of the larger and politically powerful Arctic States, have had a longstanding interest in Arctic shipping and navigation. For Canada, shipping and navigation were not only critical for the initial exploration and discovery of the Canadian North, but were also pivotal to the development of the region. The Northwest Passage, an iconic Arctic waterway which is deeply ingrained in the Canadian psyche, has also proven to be contentious in Canadian-US relations given differing views as to its status. For the United States, shipping and navigation has likewise been critical to the development of Alaska both economically and strategically, while US strategic interests across the Arctic as a whole have also relied heavily upon the freedom of navigation. When these historical factors are combined with the impacts of climate change and a partially ice free Arctic Ocean, which in turn is attracting significant interest from states that traditionally have not had an interest in Arctic affairs, a range of diplomatic, legal and policy implications are confronting Arctic shipping and navigation.


One particular dimension of this renewed interest in the Arctic has been the attention given to Arctic shipping in general, and navigational issues in particular. The 2009 *Arctic Maritime Shipping Assessment (AMSA) Report* highlighted this increased level of interest. The *AMSA Report* indicated that during the 2004 survey year there were nearly 6,000 individual vessels operating in the Arctic region, many making multiple voyages. It was observed that ‘[n]early all shipping in the Arctic today is destinational, conducted for community re-supply, marine tourism and moving natural resources out of the Arctic’. However, what was also apparent from the *AMSA Report* was the potential for an increase in not only destinational Arctic shipping, but also trans-Arctic shipping, that is, shipping routes that cross the Arctic Ocean from a point of entry to a point of exit. Such shipping routes may operate via the Northeast or Northwest Passage; in either case, the Bering Strait would become pivotal as a point of access or egress, or via other routes, which due to the effects of climate change may become more accessible.

These developments with respect to Arctic Ocean ‘chokepoints’, that is, those straits and associated waterways, which allow for access to and from the Arctic Ocean, have considerable contemporary ramifications with respect to navigational rights, duties and freedoms generally within the Arctic Ocean, and particularly with respect to Arctic straits. While certain bodies of water provide access to the Arctic, consideration also needs to be given to the ‘exit’ points. In this respect, Honderich has observed:

> What points there are, are guarded and narrow. Exit from the Arctic can be made from only four points: out the Bering Sea, which is treacherously shallow; out through the thin gap between Greenland and Canada; out through the maze of the Canadian archipelago and the Northwest Passage.

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5 Ibid. at 4–5.
6 See Molenaar, supra note 3 at 292–293.
7 Note the *AMSA Report* specifically refers to the Bering Strait as a ‘crucial chokepoint’; *AMSA Report*, supra note 4 at 129; see also 109.